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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,307	07/14/2003	Blake Schritter	23166.00	4753

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EXAMINER

BRINSON, PATRICK F

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,307

Applicant(s)

SCHRITTER, BLAKE

Examiner

Patrick F. Brinson

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/14/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1 and 4 are objected to because of the following informalities: Claims 1 and 4 both recite a "rolled" rib portion, however it is not made clear what a "rolled" rib is. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent No. 4,881,553 to **Grossman**.

The patent to **Grossman** discloses a sleeve comprising a one-piece body (2) defining an enclosure, the one-piece body having an open bottom and a closed top. A ribbed portion (6) disposed around and defining the open bottom and a reinforced portion defining the closed top. Col. 1, lines 34-43, discloses that the sleeve is a latex sheath having reinforcing elastic mesh embedded in the walls. The reinforcing mesh may be provided only in the upper half or upper one third end of the sheath. The upper end is with reference to the closed end of the sheath, as recited in claims 1-3.

Grossman does not disclose the rib portion (6) as being formed by rolling, however, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

3. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by US. 3,574,312 to **Miller**.

The patent to **Miller** discloses, fig. 4, a pipe (30) serving as a conduit, and having an open end. A one-piece body (2) is formed of a material of relatively high flexibility and elasticity defining an enclosure having an open bottom and closed top. A ribbed portion (10) disposed around and defining the open bottom and a reinforced portion (28) defining the closed top. The sleeve (2) is removably disposed on the open end in order to seal the open end, thereby preventing leakage of hydraulic fluid from the open end and the ingress of debris into the open end, as recited in claims 1, 2, 4 and 5. Col. 1, lines 65 and 66, as well as col. 3, lines 17-19 disclose that an object of the invention is to provide a closure that forms a secure seal with the threads and other surfaces that define openings. **Miller** does not disclose the rib portion (6) as being formed by rolling, however, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Miller** in view of GB reference No. 2,238,303 to **Hwang**.

The patent to **Miller** discloses the closure as being formed from a material of relatively high flexibility and elasticity, but does not disclose the material as being latex. The patent to **Hwang** discloses a closure (21) for a fluid container (4). **Hwang** disclose that the lid formed of latex can effectively seal the opening. It is flexible and stretchable so that a latex lid with a certain dimension can be used for different sizes of cups. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the material of the closure of **Miller**, a latex material, as taught by **Hwang**, wherein it is shown that latex provides the elasticity and flexibility to allow it to conform to openings of different sizes in order to seal them. Latex material is shown to be an alternative material achieving the same function as the material utilized by **Miller**.


Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Kopelowicz '950 and '249, McEwen, Schroeder, and Bowman are all pertinent to Applicant's invention in disclosing sheaths having similar structure to that of the present invention. The patents to Hetzer et al., Ferguson, Gregory, Gray, Jr., Damsel, Ryan et al., Nixon, and Foster et al. are also pertinent to Applicant's invention in disclosing pipe closures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (703) 308-0111. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick F. Brinson
Primary Examiner
Art Unit 3752

P. F. Brinson
May 14, 2004